

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LORIS LYNCH  
105 Gable Court  
San Rafael, CA 94903

Registered Nurse License No. 390984

Respondent.

Case No. 2007-125


OAH No. 2007070911

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on April 20, 2008.

IT IS SO ORDERED March 20, 2008.



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LORIS LYNCH  
Sausalito, CA 94965

Registered Nurse License No. RN#390984

Respondent.

Case No. 2007-125

OAH No. 2007070911

**PROPOSED DECISION**

Administrative Law Judge Nancy L. Rasmussen, Office of Administrative Hearings, State of California, heard this matter on January 3, 2008, in Oakland, California.

Deputy Attorney General Hannah Hirsch Rose represented complainant Ruth Ann Terry, M.P.H., R.N., Executive Officer, Board of Registered Nursing, Department of Consumer Affairs, State of California.

Respondent Loris Lynch appeared and represented herself.

The matter was submitted for decision on January 3, 2008.

**FACTUAL FINDINGS**

1. On August 31, 1985, the Board of Registered Nursing issued registered nurse license number RN#390984 to respondent Loris Lynch. The license expiration date is May 31, 2009.
2. Respondent also holds professional nurse license number RN077453 issued by the Arizona State Board of Nursing. Her license was placed on probation for 24 months by the Arizona board, effective July 21, 2006, pursuant to Consent Agreement and Order No. 0510003. In the Consent Agreement, respondent admitted the following facts:
  1. Respondent holds Board issued professional nurse license no. RN077453.
  2. From on or about July 26, 2005, to on or about October 7, 2005, Respondent was employed as a professional nurse with Cross Country TravCorps, and assigned to work as a professional nurse on

the Adult Psychiatric Unit (APU) at Santa Rosa Memorial Hospital, Santa Rosa, California (CA).

3. On or about October 1, 2005, Respondent reported to her assigned evening shift, 3 p.m. to 11 p.m. During the 3 p.m. shift report, the charge nurse detected an odor of alcohol on Respondent's breath and noticed her eyes were bloodshot and her speech was slightly slurred. The charge nurse contacted the on-call nursing supervisor, who interviewed Respondent at or about 3:45 p.m. and also detected an odor of alcohol on Respondent's breath. The nursing supervisor accompanied Respondent to St. Joseph's Urgent Care facility, where Respondent voluntarily submitted to a drug screen. Respondent admitted to consuming two or more glasses of champagne prior to reporting for duty. According to Respondent, she did not feel impaired and asserted had she felt impaired she would not have reported for duty.

4. On or about October 1, 2005, according to Respondent's urgent care medical record number 000498295 at St. Joseph's Urgent Care, Santa Rosa, CA, her blood serum ethyl alcohol level was 0.072 gm/dl at 6:58 p.m.

5. On or about October 7, 2005, Respondent was terminated from her travel contract with Cross Country TravCorps related to the positive alcohol drug screen results.

6. On or about June 16, 1993, Respondent was arrested by the Phoenix Police Department, complaint numbers 4548100, 458101, 454102 and 454699. Respondent's blood alcohol level (BAC) was recorded as 0.153.

7. On or about February 3, 1994, in Maricopa County Superior Court, Phoenix, AZ, complaint number 4548100, Respondent pled guilty to a misdemeanor DUI.

8. On or about December 30, 2005, Respondent sent a facsimile copy of her written statement to the Board and although she disclosed her June 16, 1993 misdemeanor DUI, Respondent failed to disclose the following information:

- a) On or about March 10, 1998, Respondent was charged in Maricopa County Superior Court with a Class 2 Felony, "Fraudulent Schemes & Artifices & Taking Identity of Another" in case no. CR1998-091218;
- b) On or about August 28, 1999, pursuant to a plea agreement, Respondent was sentenced and convicted to a Class 6 undesignated felony offense;

c) On or about November 11, 2002, Respondent's offense was designated a misdemeanor.<sup>1</sup>

9. On or about January 21, 2006, in an open public meeting, the Board issued an Interim Order to Respondent to submit to a substance abuse evaluation by a Board approved evaluator.

10. On or about March 29, 2006, Respondent was evaluated by Phillip D. Lett, Ph.D. Dr. Lett opined that Respondent did not meet the criterion for active substance dependence, specifically alcohol dependence. Respondent did however present with several risk factors that predisposed her to a propensity "... for an alcohol use condition, including a history of mood disorder." In order to address these risk factors, Dr. Lett recommended that Respondent: a) complete outpatient alcohol and drug education;<sup>2</sup> b) attend at least six (6) individual counseling sessions from a Board approved counselor, master's or Ph.D. level who has expertise in dealing with concurrent mood disorder and substance abuse risk factors; c) obtain a current psychiatric evaluation and/or the Board receive a recent summary and impression from Respondent's attending psychiatrist; and d) abstain from all mood altering chemicals other than those prescribed by her physician for health reasons; and e) random alcohol and drug screen monitoring. Dr. Lett further opined that once the Board receives documentation that Respondent has satisfactorily completed the above recommendations, and there are no further recommendations from her providers for further treatment or further evaluation, Respondent may safely practice nursing.

11. According to Respondent, with the exception of her legal history as reflected above which Respondent attributes to her bipolar disorder, and the exception of reporting to duty and testing positive for alcohol on or about October 1, 2005, she has successfully been employed as a professional nurse and has received good to exceptional performance evaluations.

3. Respondent denies that she has a problem with alcohol, asserting that she drinks only on special occasions. On October 1, 2005, a Saturday, respondent had forgotten that she was scheduled to work the evening shift at Santa Rosa Memorial Hospital. (She had previously worked only Monday through Friday, with weekends off.) Respondent and her husband were celebrating their first wedding anniversary that weekend, and respondent's husband surprised her

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<sup>1</sup> On October 7, 2003, the Maricopa County Superior Court vacated the judgment of guilt and dismissed the charges against respondent.

<sup>2</sup> Dr. Lett's recommendation was that respondent complete 16 hours of outpatient alcohol and drug education in a group setting. This corresponds to the Outpatient Level II program specified by the Arizona board as a condition of respondent's probation.

by preparing a special brunch, with champagne, around 11:00 a.m.<sup>3</sup> Respondent consumed several glasses of champagne over a two-hour period. (At the hearing, she conceded that she may have drunk as many as three and one-half glasses.) Sometime before 3:00 p.m., respondent got a phone call from a nurse she worked with at the hospital. It was only when the nurse mentioned that she would see respondent at work that evening that respondent recalled she was scheduled to work that day. Respondent did not feel inebriated when she went to work at 3:00 p.m., and she thought the alcohol from the champagne she had consumed would have metabolized out of her system. Also, she knew she was needed at the hospital because of high patient acuity. Respondent has since learned that there are a number of factors affecting the rate at which alcohol is metabolized, and it can be difficult to predict how long it will take for alcohol to be gone from one's system. Had she realized she was scheduled to work that day, respondent would not have had champagne with brunch. She concedes that she used poor judgment in reporting for her shift when she had consumed alcohol within the last few hours. However, she believes she was functioning well at work when she was removed from duty.

4. It is unknown what respondent's blood alcohol level was when she reported for work at 3:00 p.m. on October 1, 2005, but it had to have been substantially higher than 0.072, her blood alcohol level some four hours later. Considering that 0.08 is the level at which one is considered too impaired to safely drive a vehicle (see Vehicle Code section 23152), it is reasonable to conclude that respondent was impaired in her ability to safely practice nursing when she started her shift.

5. Since her Arizona license was placed on probation in July 2006, respondent has not worked as a nurse. She applied for a position at UCSF, but after the human resources office pulled up the accusation in this matter from the board's website she was not hired. Because the accusation recites the factual findings from the Arizona Consent Agreement, it contains the information that respondent has bipolar disorder and that she was convicted of a felony in 1999. Respondent believes it was this information that kept her from getting the job at UCSF, and she worries that she will be unable to get any work as a nurse. Respondent was unaware that the Arizona Consent Agreement is a public record or that one of the terms of her Arizona license probation is that she must provide a copy of the Consent Agreement and Order to her employer.

6. To comply with one of the conditions of her Arizona license probation, respondent underwent a psychiatric evaluation by Stephen M. Krause, M.D. In his September 13, 2006 report to the Arizona State Board of Nursing, Dr. Krause stated that "[w]ith respect to a primary alcohol problem I would concur with Dr. Lett's assessment and recommendations." (Dr. Lett's assessment was that respondent does not meet the criteria for active alcohol dependence, but she has several risk factors that predispose her to an alcohol use condition.) Dr. Krause made the following recommendations:

1. Ms. Lynch should be seen on a regular basis by a psychiatrist who is knowledgeable in the field of psychopharmacology

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<sup>3</sup> The only information about when this brunch took place is from Dr. Phillip Lett's report, in which he reports that respondent told him that "on Saturday morning her husband brought in a bottle of champagne around 11 a.m. for a special anniversary brunch."

especially medications for Bipolar Disorder. I have discussed this with Ms. Lynch and she appears quite amenable to this.

2. Although my preference would be for Ms. Lynch to be on appropriate medications on a consistent basis that decision would lie with her treating psychiatrist and Ms. Lynch. Again, Ms. Lynch appeared amenable to this.
3. I also believe that Ms. Lynch might benefit from psychotherapy whether from her treating psychiatrist or a separate therapist if necessary. It may be that some of the insight/judgment issues I have raised, coupled with the level of defensiveness identified in Dr. Lett's testing, reflect other issues in Ms. Lynch's life that we did not discuss.

Dr. Krause concluded: "I believe with these recommendations, coupled with Dr. Lett's recommendations, Ms. Lynch's prognosis is excellent and that she should be able to function well as a nurse."

7. Respondent sends in quarterly reports to her probation monitor in Arizona, but the only thing she has had to report is that she is not working as a nurse. Respondent has completed five of six required "individual counseling sessions for concurrent mood disorder and substance abuse risk factors," and she will complete the sixth session early this year. Respondent has not undergone the random drug testing required by her Arizona probation because she believes such testing cannot be implemented in California. There are a number of conditions of the Arizona probation of which respondent was unaware until they were pointed out to her at the hearing. Respondent thought she would be unable to complete probation without returning to Arizona to fulfill the requirement that she work as a professional nurse for a minimum of 12 months. However, one of the terms of probation is that she "may complete the terms of the Consent Agreement and Order in the State of California."

8. Respondent asserts that she is a highly competent nurse, with outstanding references. In a letter she wrote to the Arizona board two years ago, respondent outlined her experience and education as follows:

In over 20 years as a nursing professional, I have worked the full range from Psychiatric Emergency at San Francisco General Hospital to Administrator of one of the largest Home Health agencies in the state of Arizona. Most recently before returning to nursing, I was Regional Sales/Clinical Director for Hemametrics and Medamicus. I have a B.A. in English Literature from Santa Clara University, a B.S.N. from Boston University and nursing course work from Yale-New Haven.

I have chosen to return to nursing because of my love of working with the adult/adolescent population. Over the past months I have

received positive accolades and many requests to come on board as a full time nurse at each facility.

9. Respondent submitted a letter, dated July 1, 2005, from Luana Shiba-Harris, Director of Adolescent Services at Alta Bates Summit Medical Center. (Respondent apparently worked for some months in psychiatric nursing at Alta Bates Summit Medical Center.) Shiba-Harris praised respondent as a dedicated and competent professional who was a valued member of the adolescent team.

10. Respondent submitted a letter, dated January 14, 2006, from Dave Wagner, a friend who met her in 1995 when they both worked for 3M in the IV Pump Division. From 1998 to 2001, Wagner was the National Sales Manager for Medamicus, and respondent worked for him as a regional sales representative. Wagner described respondent as "a team player, self motivated, genuinely an optimist and achievement oriented."

11. Respondent submitted a letter, dated May 2, 2003, from Michael K. Black, Director of Sales for HemaMetrics. Black praised respondent for her excellent performance as a territory manager for the company, describing her as an honest person with a good work ethic.

12. As of December 14, 2007, the Board of Registered Nursing had incurred the following costs from the Attorney General's office in connection with the investigation and prosecution of this case:

Deputy Attorney General

2006/2007: 24.5 hrs. @ \$158/hr. – \$3,871.00

2007/2008: 20.25 hrs. @ \$158/hr. – \$3,199.50

Paralegal

2006/2007: 4.25 hrs. @ 101/hr. – \$ 429.25  
\$7,499.75

## LEGAL CONCLUSIONS

1. Finding 2: Business and Professions Code section 2761, subdivision (a), authorizes the board to take disciplinary action against a licensee for unprofessional conduct. Under subdivision (a)(4) of that section, unprofessional conduct includes disciplinary action against a health care professional license by another state. Accordingly, the discipline of respondent's professional nurse license by the Arizona State Board of Nursing constitutes cause to discipline respondent's license under Business and Professions Code section 2761, subdivision (a)(4).

2. Finding 4: Under Business and Professions Code section 2762, subdivision (b), the use of alcoholic beverages to the extent that a nurse's ability to safely practice nursing is impaired constitutes unprofessional conduct. Respondent's alcohol consumption on October 1, 2005, and her resulting impairment when she reported for duty later that day, constitute

unprofessional conduct. Cause to discipline respondent's license exists under Business and Professions Code section 2761, subdivision (a).

3. Although not alleged as a cause for discipline, respondent's 1994 conviction for driving under the influence of alcohol (Paragraph 7 of the Arizona Consent Agreement) may be considered in determining the appropriate measure of discipline in this case.

4. Complainant has requested that respondent be ordered to pay the board the costs of investigation and enforcement of the case. Business and Professions Code section 125.3 provides that respondent may be ordered to pay the board "a sum not to exceed the reasonable costs of the investigation and enforcement of the case." The actual costs of investigation and enforcement are \$7,499.75, and in the absence of any evidence to the contrary, this amount is determined to be reasonable.

5. Respondent's unprofessional conduct in reporting for duty when she had recently consumed alcohol was an isolated lapse of judgment in an otherwise unblemished 20-year nursing career. The psychologist who evaluated respondent for the Arizona board concluded that she could safely practice nursing subject to certain conditions, and the Arizona order placing respondent on probation for 24 months includes these conditions. The California board's guidelines provide that the minimum discipline in a case such as this is a stayed revocation with three years of probation. The public interest can be adequately protected by imposing this minimum discipline on respondent. Respondent contends that three years of probation is excessive, but the evidence does not justify deviating from the board's three-year minimum term. Not all the conditions of probation specified in the board's guidelines for an alcohol or drug violation are appropriate, though, since there is no evidence that respondent is alcohol dependent. Instead of being required to complete a six-month treatment/rehabilitation program, respondent shall be required to complete a board-approved chemical dependence education program of at least 16 hours in length. (This is similar to the program she is required to complete as a condition of her Arizona probation.) The condition requiring respondent to undergo a mental health examination will be imposed, with the proviso that the board may accept Dr. Krause's report in satisfaction of this requirement.

#### ORDER

Registered nurse license number RN#390984 issued to respondent Loris Lynch respondent is revoked pursuant to Legal Conclusions 1 and 2, separately and for both of them. However, the revocation is stayed and respondent is placed on probation for three (3) years on the terms and conditions set forth below.

Each term and condition of probation is separate and distinct. If any term or condition of this order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this order, and all other applications thereof, shall not be affected. Each term and condition of this order shall separately be valid and enforceable to the fullest extent permitted by law.

1. OBEY ALL LAWS: Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by respondent to the board in writing within 72 hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.
2. COMPLY WITH PROBATION PROGRAM: Respondent shall fully comply with the terms and conditions of the Probation Program established by the board and cooperate with representatives of the board in its monitoring and investigation of respondent's compliance. Respondent shall inform the board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

3. REPORT IN PERSON: During the period of probation, respondent shall appear in person at interviews/meetings as directed by the board or its designated representatives.
4. RESIDENCY, PRACTICE OR LICENSURE OUTSIDE OF STATE: Periods of residency or practice as a registered nurse outside of California shall not apply to the reduction of this probationary term. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide written notice to the board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the board if she applies for or obtains a new nursing license during the term of probation.

5. SUBMIT WRITTEN REPORTS: During the period of probation, respondent shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury as required by the board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the board or its representatives.

PROVIDE DECISION: Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. FUNCTION AS A REGISTERED NURSE: Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the board.

For purposes of compliance with the section, “engage in the practice of registered nursing” may include, when approved by the board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the board.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the board, in its discretion, may grant an extension of respondent’s probation period up to one year without further hearing in order for her to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS: Respondent shall obtain prior approval from the board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the board all performance evaluations and other employment-related reports as a registered nurse upon request of the board.

Respondent shall provide a copy of this decision to her employer and immediate supervisor prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the board in writing within 72 hours after she obtains any nursing or other health care related employment. Respondent shall notify the board in writing within 72 hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. SUPERVISION: Respondent shall obtain prior approval from the board regarding respondent’s level of supervision and/or collaboration before

commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the board, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- a. Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- b. Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
- c. Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- d. Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with her as required by the board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the board, periodic, on-site visits to patients' homes visited by respondent with or without respondent being present.

9. EMPLOYMENT LIMITATIONS: Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, for a temporary nurse placement agency, as a traveling nurse or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The board may additionally restrict respondent from

supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If respondent is working or intends to work in excess of 40 hours per week, the board may request documentation to determine whether there should be restrictions on the hours of work.

10. COMPLETE NURSING COURSE(S): Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the board before enrolling in the course(s). Respondent shall submit to the board the original transcripts or certificates of completion for the above required course(s). The board shall return the original documents to respondent after photocopying them for its records.

11. COST RECOVERY: Respondent shall pay to the board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$7,499.75. Respondent shall be permitted to pay these costs in a payment plan approved by the board, with payments to be completed no later than three months prior to the end of the probation term.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order for her to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. VIOLATION OF PROBATION: If respondent violates the conditions of her probation, the board, after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed revocation of her license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the board.

13. LICENSE SURRENDER: During the term of probation, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, she may surrender her license to the board. The board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the board. A registered nurse whose license has been surrendered may petition the board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- a) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- b) One year for a license surrendered for a mental or physical illness.

14. PHYSICAL EXAMINATION: Within 45 days of the effective date of this decision, respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the board before the assessment is performed, submit an assessment of respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the board. If medically determined, a recommended treatment program will be instituted and followed by respondent with the physician, nurse practitioner, or physician assistant providing written reports to the board on forms provided by the board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the board and respondent by telephone, and the board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the board. During this period of suspension, respondent

shall not engage in any practice for which a license issued by the board is required until the board has notified respondent that a medical determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to have the above assessment submitted to the board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the board. This period of suspension will not apply to the reduction of this probationary time period. The board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

15. COMPLETE CHEMICAL DEPENDENCE EDUCATION: Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a board-approved chemical dependence education program of at least 16 hours in length. If respondent has not completed such a program prior to commencement of probation, she shall complete the program within 120 days from the effective date of the decision.
16. ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS: Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood-altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time-limited use of any such substances.

The board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

17. SUBMIT TO TESTS AND SAMPLES: Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the board approves. The length of time and frequency will be subject to approval by the board. Respondent is responsible for keeping the board informed of her current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the board, as directed. Any confirmed positive finding shall be reported immediately to the board by the program and respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the board or any of its representatives, and shall, when requested, submit to such tests and samples as the board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the board files a petition to revoke probation or an accusation, the board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the respondent shall immediately cease practice and shall not resume practice until notified by the board. After taking into account documented evidence of mitigation, if the board files a petition to revoke probation or an accusation, the board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

18. MENTAL HEALTH EXAMINATION: Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the board. The examining mental health practitioner will submit a written report of that assessment and

recommendations to the board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by respondent.


If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the board and respondent by telephone, and the board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the board is required, until the board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

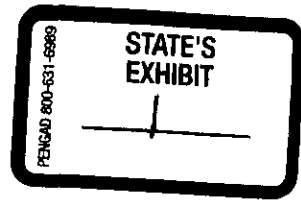
If respondent fails to have the above assessment submitted to the board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the board. This period of suspension will not apply to the reduction of this probationary time period. The board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

The board may, in its sole discretion, modify this condition of probation to accept the September 13, 2006 report of Stephen M. Krause, M.D., in lieu of requiring respondent to undergo another mental health examination.

19. THERAPY OR COUNSELING PROGRAM: Respondent, at her expense, shall participate in an on-going counseling program until such time as the board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: January 9, 2008

  
NANCY L. RASMUSSEN  
Administrative Law Judge  
Office of Administrative Hearings



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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007 - 125

13 LORIS LYNCH  
1 William Court  
14 Sausalito, CA 94965

**A C C U S A T I O N**

15 Registered Nurse License No. RN#390984

16 Respondent.  
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19 Complainant alleges:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
23 Department of Consumer Affairs.

24 2. On or about August 31, 1985, the Board of Registered Nursing issued  
25 Registered Nurse License Number RN#390984 to Loris Lynch (Respondent). The Registered  
26 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
27 will expire on May 31, <sup>2009</sup>~~2007~~, unless renewed.  
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4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

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1 Board of Nursing, Respondent admitted the following facts:

2 a. Respondent holds Board issued professional nurse license no. RN077453.

3 b. From on or about July 26, 2005, to on or about October 7, 2005,

4 Respondent was employed as a professional nurse with Cross Country TravCorps., and

5 assigned to work as a professional nurse on the Adult Psychiatric Unit (APU) at Santa Rosa

6 Memorial Hospital, Santa Rosa, California (CA).

7 c. On or about October 1, 2005, Respondent reported to her assigned evening

8 shift, 3 p.m. to 11 p.m. During the 3 p.m. shift report, the charge nurse detected an odor of

9 alcohol on Respondent's breath and noticed her eyes were bloodshot and her speech was

10 slightly slurred. The charge nurse contacted the on-call nursing supervisor, who interviewed

11 Respondent at or about 3:45 p.m. and also detected an odor of alcohol on Respondent's breath.

12 The nursing supervisor accompanied Respondent to St. Joseph's Urgent Care facility, where

13 Respondent voluntarily submitted to a drug screen. Respondent admitted to consuming two or

14 more glasses of champagne prior to reporting to duty. According to Respondent, she did not

15 feel impaired and asserted had she felt impaired she would not have reported to duty.

16 d. On or about October 1, 2005, according to Respondent's urgent care

17 medical record number 000498295 at St. Joseph's Urgent Care, Santa Rosa, CA, her blood

18 serum ethyl alcohol level was 0.072 gm/dl at 6:58 p.m.

19 e. On or about October 7, 2005, Respondent was terminated from her travel

20 contract with Cross County TravCorps related to the positive alcohol drug screen results.

21 f. On or about June 16, 1993, Respondent was arrested by the Phoenix Police

22 Department, complaint numbers 4548100, 458101, 454102 and 454699. Respondent's blood

23 alcohol level (BAC) was recorded as 0.153.

24 g. On or about February 3, 1994, in Maricopa County Superior Court,

25 Phoenix, AZ, complaint number 4548100, Respondent pled guilty to a misdemeanor DUI.

26 h. On or about December 30, 2005, Respondent sent a facsimile copy of her

27 written statement to the Board and although she disclosed her June 16, 1993 misdemeanor

28 DUI, Respondent failed to disclose the following information:

1 (a) On or about March 10, 1998, Respondent was charged in Maricopa  
2 County Superior Court, with a Class 2 Felony, "Fraudulent Schemes & Artifices & Taking  
3 Identity of Another" in case no. CR1998-091218;

4 (b) On or about August 28, 1999, pursuant to a plea agreement,  
5 Respondent was sentenced and convicted to a Class 6 undesignated felony offense;

6 (c) On or about November 11, 2002, Respondent's offense was  
7 designated a misdemeanor.

8 i. On or about January 21, 2006, in an open public meeting, the Board issued  
9 an Interim Order to Respondent to submit to a substance abuse evaluation by a Board approved  
10 evaluator.

11 j. On or about March 29, 2006, Respondent was evaluated by Phillip D. Lett,  
12 Ph.D. Dr. Lett opined that Respondent did not meet the criterion for active substance  
13 dependence, specifically alcohol dependence. Respondent did however present with several risk  
14 factors that predisposed her to a propensity "... for an alcohol use condition, including a history  
15 of mood disorder." In order to address these risk factors, Dr. Lett recommended that  
16 Respondent: a) complete outpatient alcohol and drug education; b) attend at least six (6)  
17 individual counseling sessions from a Board approved counselor, master's or Ph.D. level who  
18 has expertise in dealing with concurrent mood disorder and substance abuse risk factors; c)  
19 obtain a current psychiatric evaluation and/or the Board receive a recent summary and  
20 impression from Respondent's attending psychiatrist; and d) abstain from all mood altering  
21 chemicals other than those prescribed by her physician for health reasons; and e) random  
22 alcohol and drug screen monitoring. Dr. Lett further opined that once the Board receives  
23 documentation that Respondent has satisfactorily completed the above recommendations, and  
24 there are no further recommendations from her providers for further treatment or further  
25 evaluation, Respondent may safely practice nursing.

26 k. According to Respondent, with the exception of her legal history as  
27 reflected above to which Respondent attributes to her bi-polar disorder, and the exception of  
28 reporting to duty and testing positive for alcohol on or about October 1, 2005, she has

1 successfully been employed as a professional nurse and has received good to exceptional  
2 performance evaluations.

3 12. Respondent admitted the Board's above-stated Findings of Fact.

4 13. It was ordered, *inter alia*, that Respondent's professional nurse license in  
5 Arizona be placed on probation for a period of twenty-four (24) months.

6 SECOND CAUSE FOR DISCIPLINE

7 (Unprofessional Conduct)

8 14. Respondent is subject to disciplinary action under section 2762(b), in  
9 conjunction with section 2761(a) in that Respondent used alcoholic beverages, to an extent or in  
10 a manner dangerous or injurious to herself, any other person, or the public or to the extent that  
11 such use impaired her ability to conduct with safety to the public the practice of registered  
12 nursing. The circumstances are set forth above in Paragraphs 11 (a) through (g) and paragraph  
13 12.

14 DISCIPLINE CONSIDERATIONS

15 12. To determine the degree of discipline, if any, to be imposed on  
16 Respondent, Complainant alleges that on or about February 3, 1994, in a prior criminal  
17 proceeding in the state of Arizona against Respondent Loris Lynch in Maricopa County, Arizona  
18 Superior Court, Case Number Complaint No. 4548100, Respondent was convicted for violating  
19 Driving Under the Influence of Alcohol (Blood Alcohol level 0.153), a misdemeanor.

20 DISCIPLINE CONSIDERATIONS

21 13. To determine the degree of discipline, if any, to be imposed on  
22 Respondent, Complainant alleges that on or about August 28, 1999, in a prior criminal  
23 proceeding in the state of Arizona against Respondent Loris Lynch in Maricopa County, Arizona  
24 Superior Court, Case Number CR 1998-091218, Respondent was convicted for violating  
25 Fraudulent Schemes & Artifices & Taking Identity of Another, a misdemeanor.

26 PRAYER


27 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
28 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1                   1.       Revoking or suspending Registered Nurse License Number RN#390984,  
2 issued to Loris Lynch;

3                   2.       Ordering Loris Lynch to pay the Board of Registered Nursing the  
4 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
5 Professions Code section 125.3;

6                   3.       Taking such other and further action as deemed necessary and proper.  
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9 DATED: 11/8/06  
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13 RUTH ANN TERRY, M.P.H., R.N.  
14 Executive Officer  
15 Board of Registered Nursing  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant  
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HHR:wg 10/26/2006

**BEFORE THE ARIZONA STATE BOARD OF NURSING**

IN THE MATTER OF PROFESSIONAL )  
NURSE LICENSE NO.: RN077453 )  
ISSUED TO: )

**CONSENT AGREEMENT  
AND  
ORDER NO. 0510003**

LORIS LOUISE LYNCH )  
RESPONDENT )  
\_\_\_\_\_ )

**CONSENT AGREEMENT**

A complaint charging LORIS LOUISE LYNCH, ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07(F)(5), the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Respondent holds Board issued professional nurse license no. RN077453.
2. From on or about July 26, 2005, to on or about October 7, 2005, Respondent was employed as a professional nurse with Cross Country TravCorps., and assigned to work as a professional nurse on the Adult Psychiatric Unit (APU) at Santa Rosa Memorial Hospital, Santa Rosa, California (CA).
3. On or about October 1, 2005, Respondent reported to her assigned evening shift, 3 p.m. to 11 p.m. During the 3 p.m. shift report, the charge nurse detected an odor of alcohol on Respondent's breath and noticed her eyes were bloodshot and her speech was slightly slurred. The charge nurse contacted the on-call nursing supervisor, who interviewed

Respondent at or about 3:45 p.m. and also detected an odor of alcohol on Respondent's breath. The nursing supervisor accompanied Respondent to St. Joseph's Urgent Care facility, where Respondent voluntarily submitted to a drug screen. Respondent admitted to consuming two or more glasses of champagne prior to reporting to duty. According to Respondent, she did not feel impaired and asserted had she felt impaired she would not have reported to duty.

4. On or about October 1, 2005, according to Respondent's urgent care medical record number 000498295 at St. Joseph's Urgent Care, Santa Rosa, CA, her blood serum ethyl alcohol level was 0.072 gm/dl at 6:58 p.m.

5. On or about October 7, 2005, Respondent was terminated from her travel contract with Cross County TravCorps related to the positive alcohol drug screen results.

6. On or about June 16, 1993, Respondent was arrested by the Phoenix Police Department, complaint numbers 4548100, 458101, 454102 and 454699. Respondent's blood alcohol level (BAC) was recorded as 0.153.

7. On or about February 3, 1994, in Maricopa County Superior Court, Phoenix, AZ, complaint number 4548100, Respondent pled guilty to a misdemeanor DUI.

8. On or about December 30, 2005, Respondent sent a facsimile copy of her written statement to the Board and although she disclosed her June 16, 1993 misdemeanor DUI, Respondent failed to disclose the following information:

a) On or about March 10, 1998, Respondent was charged in Maricopa County Superior Court, with a Class 2 Felony, "Fraudulent Schemes & Artifices & Taking Identity of Another" in case no. CR1998-091218;

b) On or about August 28, 1999, pursuant to a plea agreement, Respondent was sentenced and convicted to a Class 6 undesignated felony offense;

c) On or about November 11, 2002, Respondent's offense was designated a misdemeanor.

9. On or about January 21, 2006, in an open public meeting, the Board issued an Interim Order to Respondent to submit to a substance abuse evaluation by a Board approved evaluator.

10. On or about March 29, 2006, Respondent was evaluated by Phillip D. Lett, Ph.D. Dr. Lett opined that Respondent did not meet the criterion for active substance dependence, specifically alcohol dependence. Respondent did however present with several risk factors that predisposed her to a propensity "... for an alcohol use condition, including a history of mood disorder." In order to address these risk factors, Dr. Lett recommended that Respondent: a) complete outpatient alcohol and drug education; b) attend at least six (6) individual counseling sessions from a Board approved counselor, master's or Ph.D. level who has expertise in dealing with concurrent mood disorder and substance abuse risk factors; c) obtain a current psychiatric evaluation and/or the Board receive a recent summary and impression from Respondent's attending psychiatrist; and d) abstain from all mood altering chemicals other than those prescribed by her physician for health reasons; and e) random alcohol and drug screen monitoring. Dr. Lett further opined that once the Board receives documentation that Respondent has satisfactorily completed the above recommendations, and there are no further recommendations from her providers for further treatment or further evaluation, Respondent may safely practice nursing.

11. According to Respondent, with the exception of her legal history as reflected above to which Respondent attributes to her bi-polar disorder, and the exception of reporting to duty and testing positive for alcohol on or about October 1, 2005, she has

successfully been employed as a professional nurse and has received good to exceptional performance evaluations.

### **CONCLUSIONS OF LAW**

Pursuant to A.R.S. §§ 32-1606, 32-1663 and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute violations of A.R.S. § 32-1663 (D) as defined in § 32-1601(16)(a), (b), (d), (h), and (j) and A.A.C. R4-19-403(6), (12), (24)(a), (25), currently cited as R4-19-403(B) (9), (17), (25)(a), (26), and (31). (Amended and effective November 13, 2005).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. § 32-1664(N) to revoke, suspend or take other disciplinary action against Respondent's license to practice as a professional nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact and Conclusions of Law.

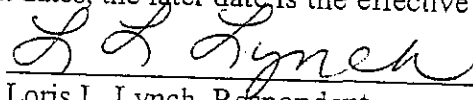
In lieu of a formal hearing on these issues, Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal or judicial review relating to the Order except in the limited circumstance(s) specified in Paragraph 20 of this Order.

Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Respondent understands that the admissions in the Findings of Fact are conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

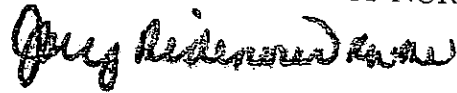
Respondent understands the right to consult legal counsel prior to entering into this Consent Agreement and such consultation has either been obtained or is waived.

Respondent understands that this Consent Agreement is effective upon its acceptance by the Board and by Respondent as evidenced by the respective signatures thereto. Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by the Respondent, the agreement cannot be withdrawn without the Board's approval or by stipulation between the Respondent and the Board's designee. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.

  
Loris L. Lynch, Respondent

Dated: 7-21-04

ARIZONA STATE BOARD OF NURSING

  
Joey Ridenour, R.N., M.N.  
Executive Director

Dated: May 19, 2006

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RAPPOPORT/RN077453/LYNCH

### ORDER

In view of the above Findings of Fact, Conclusions of Law and the consent of Respondent, the Board hereby issues the following Order:

A. Respondent's consent to the terms and conditions of the Order and waiver of public hearing is accepted.

B. Respondent's license is placed on probation for twenty-four (24) months. Prior to termination of probation, Respondent shall work as a professional nurse for a minimum of twelve (12) months (not less than sixteen hours a week).

C. This Order becomes effective upon the Board and Respondent's acceptance of the Consent Agreement. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Respondent. If the Consent agreement is signed on different dates, the later is the effective date. Probation is to commence the effective date of this Order.

D. If Respondent is noncompliant with any of the terms of the Order, Respondent's noncompliance shall be reviewed by the Board for consideration of possible further discipline on Respondent's nursing license.

E. If Respondent is convicted of a felony, Respondent's license shall be automatically revoked for a period of five (5) years. Respondent waives any and all rights to a hearing, rehearing or judicial review of any revocation imposed pursuant to this paragraph.

F. Probation is subject to the following terms and conditions:

#### **TERMS OF PROBATION**

##### **1. Stamping of License**

Within seven (7) days of the effective date of this Order, Respondent shall submit her license to be stamped "**PROBATION.**" While this Order is in effect, if the Board issues any certificates or licenses authorized by statute, except a nursing assistant certificate, such certificate or license shall also be stamped "probation." Respondent is not eligible for a multi-state "Compact" license.

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## 2. Psychiatric Evaluation/Treatment

Within thirty (30) days of the effective date of the Order, Respondent shall make an appointment to undergo a psychiatric evaluation by a Board-approved psychiatrist, to be completed within sixty (60) days of the effective date of the Order. Respondent shall execute the appropriate release of information form(s) to allow the evaluator to communicate information to the Board or its designee. Respondent shall also execute a release of information form to allow the Board Monitoring Consultant to release a copy of the report from Phillip D. Lett, Ph.D., to the evaluator. Prior to the evaluation, Respondent shall furnish a copy of this Consent Agreement and Order to include Findings of Fact, Conclusions of Law, and Order to the evaluator who shall verify receipt of the Consent Agreement and Order to include Findings of Fact in a written report on letterhead to the Board. Respondent shall direct the evaluator to provide a report to the Board summarizing the evaluation within thirty (30) days after the evaluation is completed.

The report shall include a history and physical, relevant laboratory data if appropriate, psychological testing if appropriate, recommendations for treatment, if any, and an assessment as to Respondent's ability to function safely in nursing.

If it is recommended that Respondent undergo medical treatment and/or psychological therapy or counseling, Respondent shall, within seven (7) days of notification of the recommendation(s), provide to the Board or its designee for prior approval, the name and qualifications of treatment professional(s) with appropriate level of expertise of Respondent's choice. Upon approval of the treatment professional(s), Respondent shall provide a copy of the entire consent agreement which the treatment professional(s) shall verify in writing on letterhead in their first report to the Board. Respondent shall undergo and continue treatment until the treatment professional(s) determines and reports to the Board in writing and on letterhead, that

treatment is no longer considered necessary. Respondent shall have the treatment professional(s) provide written reports to the Board every four (4) months. The Board reserves the right to amend this Order based on the evaluation results or the treatment professional's recommendations.

### 3. Psychological Counseling

Within thirty (30) days of the effective date of this Order Respondent shall submit to the Board for approval the name of a treatment professional with a minimum of a Master's Degree or Ph.D. level with an expertise in the treatment of concurrent mood disorder and substance abuse risk factors, and of Respondent's choice to conduct psychological counseling, a minimum of at least six (6) individual counseling sessions for concurrent mood disorder and substance abuse risk factors. Within seven (7) days of receipt of approval from the Board Respondent shall make an appointment to begin participation in treatment. Respondent shall execute the appropriate release of information form(s) to allow the treating professional(s) to communicate information to the Board or its designee, and Respondent shall immediately provide a copy of the entire Consent Agreement to all treating professional(s). Within seven (7) days of the beginning of treatment, Respondent shall cause any and all treating professional(s) to provide written verification of enrollment in treatment and verifying receipt of the consent agreement. Thereafter, Respondent shall cause any and all treating professional(s) to provide quarterly reports to the Board according to the quarterly reporting schedule assigned to Respondent. Respondent shall continue undergoing treatment until the treating professional(s) notify the Board, in writing on letterhead, that treatment is no longer needed. The Board reserves the right to amend the Order based on recommendation(s) of treating professional(s).

4. Chemical Dependency Education Group

Within thirty (30) days of the effective date of this Order, Respondent shall enter a Board approved chemical dependency education (Outpatient Level II) group of at least sixteen (16) hours in length. Respondent shall immediately execute the appropriate release of information form(s) to allow the Board or its designee to release the results of Philip D. Lett Ph.D., evaluation to the group facilitator. Respondent shall execute the appropriate release of information form(s) to allow the facilitator to communicate information to the Board or its designee, and Respondent shall immediately provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Facilitator. Respondent shall cause the facilitator to submit to the Board written verification of Respondent's enrollment in the Program, verification of receipt of Respondent's entire Consent Agreement, and verification of successful completion of the program. The Board or its designee reserves the right to amend the Order based on recommendation(s) of treating professional(s).

5. Drug Testing

Within seven (7) days of the effective date of this Order, Respondent shall enroll in a program that meets Board criteria for random drug testing. Random drug testing shall be done at a minimum of once per month and may be required more frequently as requested by the Board or its designee. Respondent shall notify the drug testing laboratory and the Board, in writing, of unavailability to test before the anticipated absence. If Respondent is unable to submit a specimen on a date requested due to illness, Respondent must provide in writing within seven (7) days of the missed specimen, documentation from a medical provider who has personally seen Respondent on the day of the requested drug test confirming that Respondent was not physically able to report to the laboratory for drug testing. In addition, any occurrence

of the following conditions constitutes noncompliance: a positive drug test showing evidence of any drug other than an authorized drug; submission of a specimen where the integrity has been compromised, as indicated by the presence of adulterants; failure to submit to a drug test on a day when a drug test has been requested by either the Board, its designee, or the laboratory; and submission of a urine sample that is below the acceptable volume or temperature to be tested. A positive drug test showing evidence of any drug other than an authorized drug shall result in immediate notification of Respondent's employer by the Board.

6. Abstain from Alcohol Use

Respondent shall abstain completely from the personal use of alcoholic beverages.

7. Abstain From Unauthorized Drug Use/Proof of Prescription

Respondent shall abstain completely from the personal use or possession of controlled substances, as defined in the State Controlled Substances Act, and dangerous drugs as defined by law, or any drugs requiring a prescription.

Orders prohibiting Respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to Respondent for a bona fide illness or condition by a medical provider. During the duration of this Order, Respondent shall select one medical provider to coordinate her health care needs and to be aware of all prescriptions utilized by Respondent. Respondent shall immediately submit to that provider a copy of this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and shall execute all release of information form(s) as required by the Board or its designee. The medical provider shall, within one week of the effective date of the consent agreement, inform the Board, in writing, of knowledge of Respondent's Order and provide a list

of medications prescribed for Respondent. DURING THE DURATION OF THE CONSENT AGREEMENT, RESPONDENT SHALL CAUSE ALL PROVIDERS TO NOTIFY THE BOARD OF ANY ADDITIONAL MEDICATIONS ORDERED BY THE PROVIDER. THE NOTIFICATION SHALL BE MADE IN WRITING WITHIN ONE WEEK OF THE PROVIDER'S ISSUANCE OF THE PRESCRIPTION.

If Respondent has a lawful prescription for a narcotic or mood-altering drug, Respondent shall cause her prescribing provider to submit monthly reports to the Board by the 30<sup>th</sup> day of each month regarding the continued need for the prescribed narcotic or mood-altering medications. The Board or its designee may, at any time, request the provider to document the continued need for prescribed medications. Respondent shall keep a written record of medications taken, including over-the-counter drugs, and produce such record upon request by the Board or its designee.

8. Notification of Practice Settings

Any setting in which Respondent accepts employment, which requires RN licensure, shall be provided with a copy of the entire Order on or before the date of hire. Within seventy-two (72) hours of Respondent's date of hire, Respondent shall cause her immediate supervisor to inform the Board, in writing and on employer letterhead, acknowledgment of the supervisor's receipt of a copy of this Consent Agreement and Order and the employer's ability to comply with the conditions of probation. In the event Respondent is attending a nursing program, Respondent shall provide a copy of the entire Consent Agreement and Order to the Program Director. Respondent shall cause the Program Director to inform the Board, in writing and on school letterhead, acknowledgment of the program's receipt of a copy of the Consent

Agreement and Order and the program's ability to comply with the conditions of probation during clinical experiences.

9. Quarterly Reports

Within seven (7) days of each assigned quarterly reporting due date, if Respondent is working in any position which requires RN licensure Respondent shall cause every employer Respondent has worked for during the quarter to provide to the Board, in writing, employer evaluations on the Board-approved form. The first report is due on the first assigned quarterly report due date after the effective date of the Order. Receipt of notice of an unsatisfactory employer evaluation, verbal or written warning, counseling or disciplinary action any of which pertain to patient care practice issues, or termination from a place of employment shall be considered as noncompliance with the terms of the Order. In the event Respondent is not working in a position which required RN licensure, or attending school during any quarter or portion thereof, Respondent shall provide to the Board, in writing, a self-report describing other employment or activities on the Board-approved form. Failure to provide employer evaluations/or self-reports within seven (7) days of the reporting date shall be considered as noncompliance with the terms of the Order.

10. Practice under Direct/On-Site Supervision

Respondent shall practice as a professional nurse, only under the direct supervision of a professional nurse in good standing with the Board, for the first twelve (12) months. Direct supervision is defined as having a professional nurse present on the same unit with the Respondent whenever Respondent is practicing as a professional nurse. Thereafter and until completion of probation, Respondent shall practice only under the on-site supervision of a professional nurse in good standing with the Board. On-site supervision is defined as having a

professional nurse in present in the building while Respondent is on duty. The supervising nurse shall have read this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law, and Order, and shall provide input on Respondent's employer evaluations to the Board. The supervising nurse shall be primarily one person, who may periodically delegate to other qualified personnel, who shall also have read this Consent Agreement and Order to include Findings of Fact, Conclusions of Law. In the event the assigned supervising nurse is no longer responsible for the supervision required by this paragraph, Respondent shall cause her new assigned supervising nurse to inform the Board, in writing and on employer letterhead, acknowledgment of the new supervising nurse's receipt of a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law and the new supervising nurse's agreement to comply with the conditions of probation within seven (7) days of assignment of a new supervising nurse.

11. Acceptable Hours of Work

Respondent shall work only the day or evening shift. Evening shift is defined as a shift that ends prior to midnight. Within a 14-day period Respondent shall not work more than eighty-four (84) scheduled hours.

Respondent may work three 12-hour shifts in one seven day period and four 12-hour shifts in the other seven-day period, but Respondent may not work more than three (3) consecutive 12-hour shifts during this probationary period. Respondent shall not work two (2) consecutive 8-hour shifts within a 24 hour period or be scheduled to work 16-hours within a 24 hour period.

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12. Registry Work Prohibited

Respondent may not work for a nurse's registry, home health, traveling nurse agency, any other temporary employing agencies, float pool, or position that requires on-call status.

13. Out-of-State Practice/Residence

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, it must first be approved by the Board prior to leaving the state. If Respondent fails to receive such approval before leaving the state, none of the time spent out-of-state will be credited to the fulfillment of the terms and conditions of this Order. Respondent may complete the terms of the Consent Agreement and Order in the State of California.

14. Release of Information Forms

Respondent shall immediately execute all release of information forms as may be required by the Board or its designee.

15. Interview With the Board or Its Designee

Respondent shall appear in person or if residing out of state telephonically for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

16. Renewal of License

In the event the Respondent's professional nurse license is scheduled to expire while this Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualification to practice nursing in Arizona.

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17. Change of Employment/Personal Address/Telephone Number

Respondent shall notify the Board, in writing, within one (1) week of any change in nursing employment, personal address or telephone number.

18. Obey All Laws

Respondent shall obey all federal, state and local laws, and all laws/rules governing the practice of nursing in this state. Offenses such as driving under the influence may subject Respondent to further disciplinary action, however, commission of minor civil traffic moving violations are excluded.

19. Costs

Respondent shall bear all costs of complying with this Order.

20. Violation of Probation

If Respondent is noncompliant with this Order in any respect, the Board or its designee may notify Respondent's employer of the noncompliance. Additionally, the Board may revoke probation and take further disciplinary action for noncompliance with this Order after affording Respondent notice and the opportunity to be heard. If a complaint or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

21. Voluntary Surrender of License

Respondent may, at any time this Order is in effect, voluntarily request surrender of her license.

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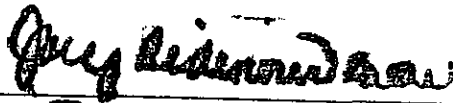
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22. Completion of Probation

Upon successful completion of the terms of probation, Respondent shall request formal review by the Board, and after formal review by the Board, Respondent's nursing license may be fully restored by the appropriate Board action if compliance with this Order has been demonstrated.

SEAL

ARIZONA STATE BOARD OF NURSING



Joey Ridenour, R.N., M.N.  
Executive Director

Dated: May 19, 2006

JR/mer:ts

COPY sent this 11<sup>th</sup> day of July, 2006, by FEDEX Overnight Delivery, to:

Loris Louise Lynch  
105 Gable Court  
San Rafael, California 94903

By: Trina Smith  
Legal Secretary